IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 2508 of 2004

Between:

1 Smt. P. Sunanda, D/o. Ranga Rao, Rep. by G.P.A. M. Kondaiah Chowdary, S/o. Vengaiah, R/o. H.No. 16-2-836/2/4, Madhavnagar, Saidabad, Hyderabad. Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar, Saidabad, Hyderabad.

2 Smt. P. Sunitha, D/o. P. Ranga Rao, Rep. by G.P.A. M. Kondaiah Chowdary, S/o. Vengaiah, R/o. H.No. 16-2-836/2/4, Madhavnagar, Saidabad, Hyderabad. Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar, Saidabad, Hyderabad.

3 K. Narasimlu, S/o. Sitaramaiah, Rep. by G.P.A. M. Kondaiah Chowdary, S/o. Vengaiah, R/o. Plot No. 36, Andhra Bank Colony, Malakpet, Hyderabad. Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar, Saidabad, Hyderabad.

4 K. Prameela Devi, D/o. K.S. Chetty, Rep. by G.P.A. M. Kondaiah Chowdary, S/o. Vengaiah, R/o. 12-1-33, Peddakapur Street, Tirupathi, Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar, Saidabad, Hyderabad.

5 P. Suresh Kumar, S/o. Subba Raju, Rep. by G.P.A. M. Kondaiah Chowdary, S/o. Vengaiah, R/o. Kiran Food Products, School Lane, Tirupathi, Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar, Saidabad, Hyderabad.

6 K. Venkateswarlu, S/o. Krishnaiah, Rep. by G.P.A. M. Kondaiah Chowdary, S/o. Vengaiah, R/o. plot No. 52, A.B. Colony, Malakpet,

Hyderabad. Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar,

Saidabad, Hyderabad.

7 Smt. N. Satyavathi, W/o. N. Narayan chetty, Rep. by G.P.A. M.

Kondaiah Chowdary, S/o. Vengaiah, R/o. H.No. 16-2-749/4, Revenue

Board Colony, Hyderabad. Occ: Business, R/o. H.No. 16-2-836/3,

Madhava Nagar, Saidabad, Hyderabad.

8 Sikaram Seshaiah, S/o. Subbaiah, Rep. by G.P.A. M. Kondaiah

Chowdary, S/o. Vengaiah, R/o. H.No. 16-20, Sikaram Street, Nellore.

Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar, Saidabad,

Hyderabad.

9 M.Ch. Ramana, W/o. M. Venkaiah, Rep. by G.P.A. M. Kondaiah

Chowdary, S/o. Vengaiah, R/o. H.No. 16-2-836/3/1, Madhavnagar,

Saidabad, Hyderabad. Occ: Business, R/o. H.No. 16-2-836/3,

Madhava Nagar, Saidabad, Hyderabad.

10 P. Narasimha Rao, S/o. P. Subbaiah, Rep. by G.P.A. M. Kondaiah

Chowdary, S/o. Vengaiah, R/o. H.No. 16-2-836/3, Madhavnagar,

Saidabad, Hyderabad. Occ: Business, R/o. H.No. 16-2-836/3,

Madhava Nagar, Saidabad, Hyderabad.

11 Venu Krishna Murthy, S/o. Chenna Subbaraidu, Rep. by G.P.A. M.

Kondaiah Chowdary, S/o. Vengaiah, R/o. Narasimhapatnam Village,

Venikuntapadu Mandal, Nellore District. Occ: Business, R/o. H.No.

16-2-836/3, Madhava Nagar, Saidabad, Hyderabad.

12 Smt. Danala Nagaratnam, W/o. Venkataratnam, Rep. by G.P.A. M.

Kondaiah Chowdary, S/o. Vengaiah, R/o. Hyuzurabad, Karimnagar

District. Occ: Business, R/o. H.No. 16-2-836/3, Madhava Nagar,

Saidabad, Hyderabad.

13 Smt. Pachava Subbaratnam, W/o. P. Chinna Rao, Rep. by G.P.A. M.

Kondaiah Chowdary, S/o. Vengaiah, R/o. Near Panduranga Temple,

Samalkot, East Godavarict, Occ: Business, R/o. H.No. 16-2-836/3,

Madhava Nagar, Saidabad, Hyderabad.

14 Venkateswarlu, S/o. late P. Venkataramaiah, R/o. Chintaladevi

Village, Nellore District.

….PETITIONERS

AND

1 Revenue Divisional Officer, Chevella Division, Attapur Village, Ranga

Reddy District.
2 Khaja Ahmeduddin, S/o. late Khaja Abdullah, R/o. 3-6-403, Himayat

Nagar, Hyderabad.
3 Khaja Abdul Rehman, S/o. late Khaja Abdullah, Occ: Business,
R/o. 4-1-171, V.S.T. Colony, Hyderabad.
4 Khaja Naseeruddin, S/o. Khaja Ahmeduddin, R/o. 3-6-403, Himayat

Nagar, Hyderabad.
5 Khaja Muneeruddin, S/o. Khaja Ahmeduddin, R/o. 3-6-403, Himayat

Nagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or writs or order or direction more particularly one in the nature of Writ of Certiorari by calling for the records pertaining to File No. L/760/2001 from the Revenue Divisional Officer, Chevella Division, Ranga Reddy District and quash the orders dated 24.1.2004 passed therein as the orders are without jurisdiction, contrary to law, violative of principles of natural justice.

Counsel for the Petitioners: SMT.A.ANASUYA

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for Respondent Nos.2 to 5: Mohd. Osman Shaheed

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WRIT PETITION NO : 17766 of 2004

Between:

1 Mamidi Yadi Reddy, s/o late Raji Reddy,
r/o Kannojiguda, Alwal Village, Malkajgiri Mandal, Rangareddy District.
2 Samala Bhoopal Reddy, s/o late Narsimha Reddy,
r/o Kannojiguda, Alwal Village, Malkajgiri Mandal, Rangareddy District.

... PETITIONERS

AND

1 Revenue Divisional officer, Chevella Division, Attapur Village, Ranga

Reddy District.

2 Khaja Ahmeduddin, s/o late Khaja Abdullah,
r/o 3-6-403, Himayat Nagar, Hyderabad.

3 Khaja Abdul Rahman, s/o late Khaja Abdullah,
r/o 4-1-171, V.S.T.Colony, Secunderabad.

4 Khaja Naseeruddin, s/o Khaja Ahmeduddin,
r/o 3-6-403, Himayat Nagar, Hyderabad.

5 Khaja Muneeruddin, s/o Khaja Ahmeduddin,
r/o 3-6-403, Himayat Nagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or writs or order or direction more particularly in the nature of writ of certiorari by calling for the records pertaining to File No.L/760/2001 from the Revenue Divisional Officer, Chevella Division, Ranga Reddy District and quash the orders dated 24-1-2004 passed therein, as the orders are without jurisdiction, contrary to law, violative of principles of natural justice.

Counsel for the Petitioners: MR.M.Y.K.RAYUDU

Counsel for the Respondent No.1: GP FOR REVENUE

Counsel for Respondent Nos.2 to 5: Mohd. Osman Shaheed

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NOS.2508 AND 17766 OF 2004

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COMMON ORDER:

The petitioners in W.P.No.2508 of 2004 allege that they purchased land admeasuring Ac.16.12 guntas in Survey No.367 and Ac.11.29 guntas in Survey No.368 of Alwal village of Malkajgiri Mandal in a Court auction conducted by the Court of Additional Chief Judge-cum-Principal Special Judge for SPE and ACB cases. They were allegedly put in possession on 20.11.1987 by the Court Bailiff. One Kothakapu Sai Reddy and three others filed application in Form No.I before the first respondent (Revenue Divisional Officer) claiming Occupancy Rights Certificate (ORC). In the said application, respondents 2 to 5 herein got impleaded as objectors. The petitioners in W.P.No.2508 of 2004 as well as petitioners in W.P.No.17766 of 2004 filed applications in Form No.I claiming ORC. The petitioners in W.P.No.17766 of 2004 also filed objection petition in Form No.I claiming that they have been in possession for more than fifty years as Kabiz-e-kadim and that they are entitled to fifty per cent share each in the land admeasuring Ac.28.01 guntas comprising in Survey Nos.367 and 368.

After conducting due enquiry, by an elaborate order, the Revenue Divisional Officer ordered issue of ORC in favour of respondents 2 and 3 herein. The objections filed by the petitioners in both the writ petitions as well as one K.Mohan Reddy, were dismissed/rejected. Aggrieved by the proceedings of the Revenue Divisional Officer dated 24.01.2004, the present writ petitions are filed. The grounds urged in both the writ petitions are the same. The respondents 2 to 5 in W.P.No.2508 of 2004 moved an application being W.V.M.P.No.913 of 2004 for vacating the interim orders of this Court dated 12.02.2004 in W.P.M.P.No.3311 of 2004. Though the interlocutory matters are listed before this Court, having regard to the fact that against the impugned order, other aggrieved persons have already filed an appeal under

Section 24 of the A.P.(Telangana Area) Abolition of Inams Act, 1955 (for short, the Act) before the Joint Collector, Rangareddy District, with the consent of the learned counsel for the petitioners, the writ petitions were heard finally and are being disposed of at the interlocutory stage.

Along with the vacate stay application, counter affidavit is filed opposing the writ petition. While denying various allegations made by the petitioners, it is stated that respondents 2 to 5 are inamdars as per the revenue records, who were in possession of the land as on 01.01.1973 and that the writ petitioners have no right to claim ORC. During the course of the arguments, it is also brought to the notice of this Court that one K.Mohan Reddy on the one hand and one Pakirunnisa Begam on the other hand filed appeals before the Joint Collector under Section 24 of the Act and therefore the writ petitions are not maintainable. The learned counsel for petitioners Sri M.Y.K.Rayudu and Ms.A.Anasuya however submit that the land being Jagir land, the Act has no application, that the land ceased to be agricultural land having been converted to residential purpose as per the master plan and therefore for non-agricultural purpose, the Act has no application. They urge that the Revenue Divisional Officer has passed orders without jurisdiction and therefore the orders are void and in that view of the matter, the availability of alternative remedy under Section 24 of the Act is not a bar by invoking the jurisdiction of this Court under Section 226 of the Constitution of India. Indeed, the learned counsel for the petitioners in W.P.No.17766 of 2004 has brought to the notice of this Court that in another connected matter in respect of the same land, the Joint Collector dismissed the appeal holding that the land in question is not covered by the provisions of the Act. This is, however, disputed by the learned counsel for the contesting respondents. The learned Assistant Government Pleader for Revenue has brought to the notice of this Court that the appeals filed against the orders of the Revenue Divisional Officer impugned in these writ petitions stand posted to 16.11.2004 for final hearing.

Though learned counsel for the petitioners have raised various other grounds, this Court is not inclined to go into these questions, having regard to the fact that the appeals have already been filed by other similarly situated persons, who also filed objection petitions before the Revenue Divisional Officer.

The writ petitioners on their own submitted to the jurisdiction of the Revenue Divisional Officer under Section 10 of the Act by filing objection petitions. They participated in the enquiry. The Revenue Divisional Officer has dismissed the objections by passing an elaborate order. Therefore, it is reasonable to infer that as an after thought, the petitioners are raising the question of jurisdiction. Such a question can as well be raised before the appellate authority because a statutory authority has powers to determine the question of jurisdiction also. If the petitioners' contention is accepted and this Court records findings on the questions raised herein, the same would amount to prohibiting the Joint Collector to proceed further with the appeals. The petitioners have failed to demonstrate before this Court that the Revenue Divisional Officer as well as the Joint Collector suffer from inherent

lack of jurisdiction. Therefore, liberty is given to petitioners to file appeals before the Joint Collector within a period of two weeks from the date of receipt of a copy of this order raising all grounds including the question of jurisdiction of the Tenancy Tribunal under Section 10 of the Act. As and when such appeals are filed by the petitioners herein, the Joint Collector, Rangareddy District shall entertain the same and decide the appeals along with other two appeals already filed against the orders of the Revenue Divisional Officer and pass appropriate orders within a period of three months therefrom.

The writ petitions, with the above directions, are accordingly disposed of. There shall be no order as to costs.

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(V.V.S.RAO,J)

04.10.2004.

pln

Note: Issue CC by 07.10.2004

(b/o)

pln

To

1. The Revenue Divisional Officer, Chevella Division, Attapur Village, Ranga Reddy District.

2. 2 CCs to the G.P. for Revenue, High Court Buildings, Hyderabad (OUT).

3. 2 CD copies.